

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEBORAH DONOGHUE,

Plaintiff,

-against-

LOCAL.COM CORPORATION and HEARST
COMMUNICATIONS, INC.,

Defendants.

x

:

:

:

Case No.

:

07CIV8550 (LBS)

:

:

x

DEPOSITION of DOUGLAS NORMAN, taken by
Plaintiff at the offices of Kramer, Levin, Naftalis &
Frankel, LLP, 1177 Avenue of the Americas, New York,
New York 10036, on Thursday, May 15, 2008 commencing
at 10:10 o'clock a.m., before Janine Figliozzi, a
Shorthand (Stenotype) Reporter and Notary Public
within and for the State of New York.

A P P E A R A N C E S:

DAVID LOPEZ, ESQ.
Attorneys for Plaintiff
171 Edge of Woods Road
Southampton, New York 11968

GREENBERG TRAURIG, LLP
Attorneys for Hearst Communications
200 Park Avenue
New York, New York 10166

BY: ALAN MANSFIELD, Esq., of Counsel
WILLIAM A. WARGO, Esq., of Counsel

KRAMER, LEVIN, NAFTALIS & FRANKEL, LLP
Attorneys for Local.com
1177 Avenue of the Americas
New York, New York 10036

BY: JONATHAN L. FRIED, Esq., of Counsel

ALSO PRESENT:

Jack Spizz, Esq., Office of General
Hearst Corporation

Norman

D O U G L A S N O R M A N, called as a
witness, having been first duly sworn by
Janine Figliozzi a Notary Public within
and for the State of New York, was
examined and testified as follows:

DIRECT EXAMINATION BY MR. LOPEZ:

Q Please state your name.

A Douglas St. John Norman.

Q Do you appear today for Local.com?

A Yes.

Q What is your relationship to
Local.com?

A I am the chief financial officer
and secretary.

Q What was your relationship to
Local.com on July 31, 2007?

A Same.

Q August 1, 2007?

A Same.

Q Did you participate in the sale
and issuance of 2,356,900 shares of common stock
by Local.com on or about July 31, August 1,
2,007?

A Yes.

Norman

1
2 Q For purposes of SEC compliance
3 reporting, the company uses the numbers found on
4 the company's maintained Excel ledger, correct?

5 A Yes.

6 MR. MANSFIELD: Why don't we
7 mark this as -- David, unless you
8 have an objection, why don't we just
9 continue the numbering.

10 MR. LOPEZ: All right.

11 MR. MANSFIELD: Make it 10.

12 (Form 8K for Local.com was
13 marked as Plaintiff's Exhibit No. 10
14 for identification, as of this
15 date.)

16 Q I am handing you what has been
17 marked as Exhibit 10 --

18 MR. FRIED: Do you have a
19 copy for me?

20 Q Can you identify it?

21 A Its' a Form 8-K for Local.com
22 Corporation.

23 Q Did you sign it?

24 A Yes.

25 Q What does it state?

Norman

A It states the entry into a material definitive agreement regarding the issuance of shares as well as the consent to equity sales.

Q What is the date of Exhibit 10?

A Date of report says July 31.

Q Why don't you look at the signature page and tell me if that bears a date.

A Date says August 1, 2007.

Q When did you sign it?

A August 1st, 2007.

Q Is this the 8-K that was filed with the SEC at 4:32 Eastern standard time on August 1, 2007?

A Yes.

Q If I can refer you to page 4 of Exhibit 10, the first line under the title item 1.01, do you see that?

A Yes.

Q Do you see it says on August 1 Local.com Corporation issued 2,356,900 shares of its common stock?

A Yes.

Q Was that statement true at the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Norman

time the 8-K was filed with the SEC?

A No.

Q Has Local.com supplemented or amended the 8-K that it filed on August 1, 2007?

A No.

Q When did Local.com first become aware that statements filed on August 1, 2007 with the Securities and Exchange Commission were inaccurate?

MR. FRIED: Object to the form.

A I don't believe it is inaccurate.

Q So the statement -- first sentence on page 4 of Exhibit 10 is accurate --

A Well --

Q -- is that correct?

A -- in context it is because on August 1st we did issue them.

Q At 4:32 Eastern Standard Time had the shares been issued?

MR. FRIED: Objection, asked and answered.

A No.

Q So at 4:32 was the statement

Norman

accurate?

A I guess not.

Q It's your testimony that there has been no amendment or supplement to the 8-K to correct the inaccuracy; is that correct?

A Correct.

Q Mr. Norman, what if anything did you do to prepare for today's deposition?

A I reviewed the document requests. I reviewed E-mails relating to that request. I talked with my corporate counsel.

Q Who is your corporate counsel?

A Rattan and Tucker.

Q Anyone specific?

A Yes.. Derek, D-e-r-e-k, Dundas, D-u-n-d-a-s. I spoke with David Katzoff. I spoke to the two other officers of the company to let them know that I had work to do, and I believe that's it -- oh, and spoke with Jonathan Fried.

Q Your counsel here at the deposition?

A Yes.

Q Did you speak with Mr. Lopez?

1 Norman

2 A No.

3 Q Did you ask Mr. Dundas whether he
4 had documents that might be responsive to the
5 document requests?

6 A Yes.

7 Q What did he say?

8 A He said he would -- he actually
9 produced some.

10 Q Who drafted the 8-K?

11 A It was a collaborative effort
12 between our corporate counsel and David Katzoff
13 and myself.

14 Q Did you review it before you
15 signed it?

16 A Yes.

17 Q The 8-K reflects a repricing of
18 warrants owned by Hearst; is that correct?

19 MR. FRIED: Objection. The
20 document speaks for itself.

21 A Yes.

22 Q Are you familiar with the
23 repricing of --

24 A Yes.

25 Q -- the Hearst warrants?

1 Norman

2 A Yes.

3 Q How are you familiar with them?

4 A I reviewed the consents as they
5 were being drafted and I discussed with counsel,
6 probably discussed it with the board of
7 directors during the approval process. I think
8 that's pretty much it.

9 Q Did there come a time that Hearst
10 received repriced warrants?

11 MR. FRIED: Object to the
12 form.

13 A Yes --

14 MR. MANSFIELD: Withdrawn.
15 Withdrawn.

16 Q Did there come a time that
17 warrants that were repriced were delivered to
18 Hearst by Local.com?

19 A I believe so, yes.

20 Q When was that?

21 A I'm not sure the date that they
22 received them.

23 Q What date were they delivered?

24 A I'm not sure what date.

25 Q Were they delivered after

1 Norman

2 August 1, 2007?

3 A Most likely.

4 Q Tell me what the process would be
5 for the creation and delivery of repriced
6 warrants to Hearst in or about August 2007.

7 A We would have to have an agreement
8 and then we would strike the warrants from our
9 ledger, existing ones, then reissue new ones
10 that reflected the correct price.

11 Q So let's take this in steps.
12 First, there would have to be an agreement,
13 correct?

14 A Correct.

15 Q Was there such an agreement?

16 A Yes.

17 Q When was that agreement?

18 A July 31, 2007.

19 Q You said the next step would be to
20 strike the warrants from the ledger, correct?

21 A To enter them into the ledger as
22 well as to strike the existing ones.

23 Q What ledger are we talking about?

24 A The warrant ledger.

25 Q The warrant ledger you said is

1 Norman

2 maintained by Local.com?

3 A Yes.

4 Q Who physically would enter the new
5 warrants into the warrant ledger?

6 A David Katzoff.

7 Q Did there come a time he did that?

8 A Yes.

9 Q When?

10 A I'm not sure.

11 Q Would he have done it only on your
12 authorization and direction in the normal course
13 of Local.com business?

14 A Yes.

15 Q Did there come a time that you
16 directed him to enter the new warrants into the
17 warrant ledger?

18 A Yes.

19 Q Do you remember when that was?

20 A No.

21 Q Would that have been done orally
22 or in writing?

23 A Orally.

24 Q Would there be any written
25 reflection of that oral direction?

1 Norman

2 297, which counsel provided us after the
3 deposition began today. Can you identify
4 Exhibit 12?

5 A These are E-mails from the
6 company's bank to Georgia Thompson who is the
7 company's controller.

8 Q When you say the company's bank,
9 do you mean Local.com's bank?

10 A Yes.

11 Q You have in front of you Exhibit
12 11, correct?

13 A Correct.

14 Q I'd like you to look through that
15 and tell me if you can identify it?

16 A These are advices from the
17 company's bank that were attached to the
18 E-mails.

19 Q The 2,356,900 shares were
20 purchased pursuant to a PIPE, is that correct?

21 A Correct.

22 Q Who were the purchasers?

23 A There were two funds and then
24 within those funds they actually purchased them
25 with specific -- I guess sub-funds, you would

1 Norman

2 say, there's 27 entries and within there, there
3 were more entries.

4 Q For our purposes in this
5 deposition, can we call those funds and the
6 sub-funds the buyers, would we understand each
7 other if we refer to it as the buyers?

8 A Yes.

9 Q The buyers were party to the stock
10 purchase agreement that you discussed earlier
11 today, correct?

12 A Yes.

13 Q And Local.com was the other party,
14 correct?

15 A Yes.

16 Q It was that stock purchase
17 agreement that you said had various conditions
18 of closing, correct?

19 A Yes.

20 Q Do the documents contained in
21 Exhibits 11 and 12 reflect payment made by the
22 buyers pursuant to the stock purchase agreement?

23 A Yes.

24 Q These were payments for the common
25 shares, correct?

Norman

A Yes.

Q The payments reflected on Exhibits 11 and 12 went directly into Local.com's bank account, correct?

A Yes.

Q These payments were not held in escrow, correct?

A They were not -- they were not held by an escrow agent.

Q Is there any document that says these payments were held in escrow for any purpose?

A Well, I would refer to the securities purchase agreement because there was obligations on the companies that we have to fulfill as well as the buyer fulfill.

Q After the buyer made payment by wire transfer on August 1st, 2007, was there any obligation left on the part of the buyers to comply with the terms of the stock purchase agreement?

A I don't believe so.

Q When was the last of the payments received by Local.com in its bank account made

1 Norman

2 by the buyers on August 1st, 2007?

3 A We received notice at 1:06 p.m.
4 Pacific.

5 Q So that would be 4:06 Eastern
6 Standard Time, correct?

7 A Correct.

8 Q So as of 4:06 Eastern Standard
9 Time on August 1, 2007, the buyers had made
10 payment for the common shares the buyers
11 purchased under the stock purchase agreement,
12 correct?

13 A Correct.

14 Q It's the case, is it not, that
15 Local.com told the transfer agent to wait before
16 delivering the certificates until Local.com was
17 paid, correct?

18 MR. FRIED: Object to the
19 form.

20 A Yes. There was an E-mail to
21 that -- I think there was multiple E-mails. One
22 of them may have referred to payment.

23 Q Look at Exhibit 2 and I direct
24 your attention to the fourth line.

25 MR. FRIED: Is there a

Norman

question pending?

MR. MANSFIELD: I was
directing his attention to Exhibit
2.

Q Do you have it?

A Yes.

Q Do you see the fourth line of
Exhibit 2 that begins, "Once we receive payment,
I will send over an issuance letter to issue the
shares," do you see that?

A Yes.

Q Is that the E-mail exchange to
which you were referring earlier about payment
being the condition before the transfer agent
was to deliver certificates?

A Payment being a condition.

Q Was there any other condition told
to the transfer agent other than payment as
relating to the transfer agent's delivery of
certificates?

MR. FRIED: Reflected on
this E-mail or at all?

MR. MANSFIELD: At all.

A Yes -- wait, what was the question